

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

El Segundo Power, LLC) Docket No. ER05-617-000

El Segundo Power, LLC) Docket No. ER05-363-000

(Not Consolidated)

**MOTION TO INTERVENE AND CONSOLIDATE OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.212 & 385.214 (2004), the California Independent System Operator Corporation (“ISO”) submits this Motion to Intervene in Docket No. ER05-617-000 and a Motion to Consolidate Docket No. ER05-617-000 with the ongoing proceeding in Docket No. ER05-363-000. As described below, the ISO also supports El Segundo Power, LLC’s (“El Segundo”) request that the Commission act by April 15, 2005 to accept the February 18, 2005 filing and grant the waiver El Segundo seeks to enable the submitted changes to become effective May 1, 2005.

I. Description of the Proceeding

On December 21, 2004, in Docket No. ER05-363-000, El Segundo filed, pursuant to Section 205 of the Federal Power Act (“FPA”), its Rate Schedule FERC No. 2, Reliability Must-Run Service Agreement (“RMR Agreement”) between El Segundo and the ISO, as well as a letter agreement (“Letter Agreement”) dated December 20, 2004 between El Segundo and the ISO setting forth additional terms and conditions that affect the RMR Agreement.

The ISO, as part of a Joint Protest submitted January 11, 2005, protested El Segundo's failure to provide adequate support for a variety of cost elements necessary in establishing El Segundo's Annual Fixed Revenue Requirement ("AFRR") under Schedule F of the RMR Agreement. ^{1/} By order dated February 11, 2005, the Commission accepted the RMR Agreement and the Letter Agreement, suspended them for a nominal period, made them effective January 1, 2005, subject to refund, and set them for hearing and settlement judge procedures. ^{2/}

On February 18, 2005, El Segundo filed changes to the RMR Agreement in the present docket. Under the effective RMR Agreement, El Segundo elected to collect rates under Condition 2 and designated Condition 1 as "not applicable." ^{3/} Separately, as part of the Letter Agreement, the ISO agreed that El Segundo could switch to Condition 1 in the event that El Segundo entered into a bilateral agreement with Southern California Edison ("SCE") during the 2005 RMR Contract Year. ^{4/} El Segundo now has entered into a bilateral agreement with SCE

^{1/} See Joint Protest of California Independent System Operator Corp., Southern California Edison Company, California Electricity Oversight Board, and California Public Utilities Commission submitted in Docket No. ER05-363-000 on January 11, 2005.

^{2/} *El Segundo Power, LLC*, 110 FERC ¶ 61,123 (2005).

^{3/} Under the RMR Agreement, El Segundo has the option of operating under two conditions of service, "Condition 1," under which it may participate in market transactions and retain the revenues, and "Condition 2," under which it may not participate in the market unless the ISO issues a Dispatch Notice and it is paid only pursuant to the RMR Agreement. RMR Agreement, § 3.1.

^{4/} In the Letter Agreement, the ISO agreed not to unreasonably withhold its consent to El Segundo's transfer from Condition 2 to Condition 1 to facilitate El

and, through the February 18, 2005 filing in this docket, it has submitted changes to the RMR Agreement to incorporate Condition 1 terms for Contract Year 2005. El Segundo has requested an effective date of May 1, 2005. In addition, El Segundo has requested that the Commission issue an order no later than April 15, 2005.

II. Description of the ISO and Communications

The ISO is a non-profit public benefit corporation organized under the laws of the State of California with a principal place of business at 151 Blue Ravine Road, Folsom, CA 95630. The ISO is the Control Area Operator responsible for the reliable operation of a grid comprised of the transmission systems of a number of public utilities including SCE, as well as for the coordination of the competitive ancillary services and real-time electricity markets in California.

The ISO requests that all communications and notices concerning this motion and these proceedings be provided to: [5/](#)

Segundo's ability to enter into Market Transactions in the absence of an RMR Dispatch Notice. The ISO also agreed to waive a provision in section 3.2(a) of the RMR Agreement to shorten the notice timing El Segundo was required to provide before moving either or both of its units from Condition 2 to Condition 1. In return, El Segundo agreed to make a filing with the Commission specifying a Condition 1 Fixed Option Payment Factor prior to the effective date of the change from Condition 2 to Condition 1.

[5/](#) Pursuant to Rule 101(e), 18 C.F.R. § 385.101(e), the ISO requests waiver of the Commission's limit on persons to be served, as set forth in 18 C.F.R. § 385.203(b)(3).

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III. Motion to Intervene in Docket No. ER05-617-000

El Segundo's RMR Units are located within SCE's transmission system and are needed to maintain the reliability of the ISO Controlled Grid. As the Control Area operator and as the counter party to the RMR Agreement and the Letter Agreement, the terms of which are being implemented in this filing, the ISO has a unique interest in any Commission proceeding concerning the RMR Agreement. Accordingly, the ISO has a direct and substantial interest in this proceeding and requests that it be permitted to intervene with full rights of a party. Because no other party can adequately represent the ISO's interests in this proceeding, the ISO's intervention is in the public interest and should be granted.

IV. Motion to Consolidate with Docket No. ER05-363-000

The ISO supports El Segundo's request that the Commission act by April 15, 2005 to accept the February 18, 2005 filing and grant the waiver El Segundo seeks to enable the submitted changes to become effective May 1, 2005. The requested changes to El Segundo's Rate Schedule FERC No. 2 are consistent with the terms of the Letter Agreement agreed to between the ISO and El Segundo and are necessary to implement the terms of that agreement.

However, El Segundo's proposal to change from Condition 2 to Condition 1 does not eliminate the issues that have been protested and set for hearing and settlement judge proceedings in Docket No. ER05-363-000. [6/](#) The resolution of those issues will establish the terms of RMR service from January 1, 2005 up to the new May 1, 2005 effective date requested here. Moreover, Docket No. ER05-363-000 will determine El Segundo's AFRR, which AFRR will apply to RMR operations during the period covered by this proceeding as well. Accordingly, the ISO believes that it is desirable to consolidate the present proceeding with the existing proceeding in Docket No. ER05-363-000, so that all issues relevant to El Segundo's 2005 RMR Agreement can be resolved in a single proceeding.

[6/](#) Certain of the disputed costs underlie numbers reflected on the tariff sheets accompanying the February 18 filing. Those numbers, however, are simply carried forward from El Segundo's December 21 filing that the ISO has protested. They are not new in the February 18 filing, and they remain the subject of the CAISO's earlier protest.

WHEREFORE, the ISO respectfully requests that the Commission grant this Motion to Intervene and consolidate the present proceeding with the ongoing proceeding in Docket No. ER05-363-000.

Respectfully submitted

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Counsel for
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Dated: March 10, 2005

CERTIFICATE OF SERVICE

Take notice that I have on this day served a full and complete version of the above pleading on all parties on the official service list in these proceedings pursuant to the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

/s/ Sidney M. Davies
Sidney M. Davies
California Independent System
Operator Corporation

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